

To: Harris County Precinct One Commissioner Ellis
From: Katie Short, Director; Amber Weed, Chief of Staff and Director of Policy;
Laila Elimam, Analyst
CC: Brandon Dudley and Sophie Elsner, Precinct One
Date: May 11, 2021
Re: **Juror Pay Memo**

EXECUTIVE SUMMARY

The Commissioners Court's Analyst's Office (the "Analyst's Office") received the following request from Harris County Precinct One and members of the Commissioners Court, during the March 30, 2021 Commissioners Court meeting: "Budget Management convene the Analyst's Office, the Justice Administration Department (JAD), the District Clerk, and relevant stakeholders and bring back a proposal within 30 days or less as pertains to jurors."

The motion builds on a request submitted by the Harris County District Clerk's Office (DCO) to the Commissioners Court on March 30, 2021 to increase juror pay to drive improved juror appearance rates and juror diversity. The Analyst's Office has been tasked to identify strategies that helped increase juror appearance rates, review the impact of pay increases in other jurisdictions, and examine whether an increase in pay in other jurisdictions resulted in greater turnout and/or greater diversity of juror participation.

Juror response rates are notoriously low throughout the country, while diversity in jury pools is also lacking. Harris County's response rate in 2018-2019 was around 20%, with African Americans and Hispanics significantly underrepresented. African Americans make up 22.4% of Harris County residents over the age of 18 but comprised 16.1% of jurors who appeared after being summoned in 2018-2020. Similarly, Hispanics over the age of 18 make up 29.1% of Harris County residents but comprised 19.1% of jurors who appeared after being summoned in 2018-2020.

Juror eligibility is governed by the Texas Government Code Chapter 62. Eligibility requirements pertain to age, citizenship status, residency, voter qualification, character, ability to read and write English, recent jury service, and criminal history. Exemptions are permitted for certain groups, such as individuals over 70 years old, students at public or private secondary school or higher education institutions, and individuals who are primary caretakers for others, among other groups.

Chapter 62 also describes the process of juror selection from the jury wheel, which is provided to counties by the Texas Secretary of State. The jury wheel contains resident names from voter registration lists and driver's license records or identification cards

issued by the Department of Public Safety (DPS). In Harris County, the jury wheel is split into three categories to ensure that no zip code is overrepresented on the jury wheel and that the zip codes are proportionally randomized.

To improve low appearance rates, the DCO adopted the use of the e-Juror system during the COVID-19 pandemic, a program that gives potential jurors the flexibility of responding online to their jury qualification questionnaire. Appearance rates increased to 92% following implementation. The DCO is awaiting approval from the Board of Harris County District Judges to expand e-Juror after the COVID-19 pandemic. According to the DCO, full implementation of e-Juror will result in cost savings to the County since it improves appearance rates and will reduce the number of jurors that the DCO has to pay after the first day.

Additional efforts implemented by the DCO to improve appearance rates include: the “Stand for Justice” campaign, which promotes the importance of jury service through billboards and social media posts; a national change of address service to decrease undeliverable summonses; and the one-day/one-trial system, allowing individuals summoned for jury service to report for one day and releasing them from service unless they are selected to serve on a trial.

To target low diversity rates, the DCO consulted January Advisors to conduct a study on the underrepresentation of African Americans and Hispanics on juries in Harris County. January Advisors surveyed African American and Hispanic residents and recommended increasing juror pay; making travel easier with free parking and rideshare vouchers; establishing a pilot program for undeliverable summonses; and continuing to promote COVID-19 safety measures.

The Analyst’s Office conducted a literature review to assess the performance of strategies to improve juror appearance rates and diversity in other jurisdictions. The highlights include:

- Increasing juror appearance rates and diversity **requires implementation of multiple strategies in tandem** to yield the greatest benefit.
- Strategies showing the most promise with respect to increasing juror appearance rates and diversity include:
 - o **Following-up with reminders on jury summons** (with or without penalties);
 - o **Conducting targeted outreach and education programs** with community members and organizations, with specific focus on minority communities; and
 - o **Increasing juror pay.**
- Juror pay increases implemented in counties in Texas have not produced universally positive outcomes, though **when coupled with an outreach effort specifically, juror pay increases may be more successful at improving appearance rates and diversity of the jury pool.**
- An absence of education and outreach can minimize the impact of a juror pay increase, as underscored in Washington State where only one in 12 prospective jurors who did not appear for service surveyed were aware of the State’s pay increase.

INTRODUCTION

The Commissioners Court's Analyst's Office (the "Analyst's Office") received the following request from Harris County Precinct One, and members of the Commissioners Court, during the March 30, 2021 Commissioners Court meeting:

"Budget Management convene the Analyst's Office, the Justice Administration Department (JAD), the District Clerk, and relevant stakeholders and bring back a proposal within 30 days or less as pertains to jurors."

The Analyst's Office addresses the following:

- Identify strategies that helped increase appearance rates in other jurisdictions;
- Review the impact of pay increases in other jurisdictions; and
- Examine whether an increase in pay in other jurisdictions resulted in greater turnout and/or greater diversity of participation.

This memo begins with: a brief description of Texas State statutes governing the management of juries; discussion of the problem of low juror appearance rates and lack of diversity on juries around the country; and summary of efforts made by the District Clerk's Office (DCO) to increase juror appearance rates and improve diversity. A description of strategies to improve appearance rates on state and local levels around the country derived from a literature review, along with a review on the impacts of pay increases in other jurisdictions, conclude the memo.

BACKGROUND

The Harris County District Clerk's Office (DCO) manages jury service for trials held in Harris County Courts and District Courts. Texas State statutes outlines parameters for managing the engagement of prospective jurors, juror selection, juror compensation, etc. The Harris County District Clerk's Office is working to improve juror appearance rates and the lack of diversity of juror pools.

Texas State Statutes Related to Jury Serviceⁱ

Texas Government Code Chapter 62 pertains to petit juries.ⁱⁱ Chapter 62.102 lays out the qualifications for an individual to be eligible for jury selection, which includes the following nine requirements:

1. "is at least 18 years of age;
2. is a citizen of the United States;
3. is a resident of this state and of the county in which the person is to serve as a juror;
4. is qualified under the constitution and laws to vote in the county in which the person is to serve as a juror;
5. is of sound mind and good moral character;
6. is able to read and write;
7. has not served as a petit juror for six days during the preceding three months in the county court or during the preceding six months in the district court;

ⁱ Texas State statutes governing juries are extensive. This is not an exhaustive list of Texas State statutes that govern jury proceedings.

ⁱⁱ The Analyst's Office was not specifically tasked with differentiating between jury selection for petit versus grand juries. For the purposes of this analysis, the assumption is that jury summons is primarily for petit jury trials.

8. has not been convicted of misdemeanor theft or a felony; and
9. is not under indictment or other legal accusation for misdemeanor theft or a felony.”¹

Exemptions are permitted for certain groups including: individuals over 70 years old; students at public or private secondary school; individuals who have a child under the age of 12 under their supervision and cannot find adequate care; students enrolled in and attending a higher education institution; individuals that have served as a petit juror during the current jury wheel in Harris County; individuals who are primary caretakers for others who cannot take care of themselves; or individuals who are on active military duty away from their residence.²

Chapter 62 also describes the process of juror selection from the jury wheel, which is provided to counties by the Texas Secretary of State. The jury wheel contains resident names from voter registration lists and driver’s license records or identification cards issued by the Department of Public Safety (DPS).³ Counties in Texas are mandated by the state to use juror source lists provided by the Secretary of State.

In Harris County, juror selection occurs through pulling names from a randomized list of residents who are registered to vote, or hold a driver’s license or Texas identification card.⁴ The jury wheel is split into three categories to ensure that no zip code is overrepresented on the jury wheel and that the zip codes are proportionally randomized.⁵ Based on the State eligibility guidelines, residents who do not read and write English are exempt from jury service, contributing to a smaller juror pool.⁶

Criminal court procedures, including jury formation and management, are governed by a number of statutes codified in Texas State Law. Texas Code of Criminal Procedure Chapter 35 addresses jury formation, with details on possible exemptions, fines related to failure of appearing, and the process of juror selection and peremptory challenges in the jury selection process.⁷

Texas Government Code Chapter 61 mandates that jurors be compensated no less than \$6 for the first day and no less than \$40 per day for subsequent days, which went into effect with the passage of Senate Bill 1704 in 2005.^{8 9} Texas counties are permitted to compensate jurors with greater amounts if they choose to.¹⁰ The State contributes \$34 per day after the first day.¹¹

The Texas Civil Practice and Remedies Code Chapter 122 protects jurors from facing repercussions from their employerⁱⁱⁱ in the event that they are summoned and required to serve on a jury.¹² However, Texas State law does not mandate employers to pay their employees for time off to serve on a jury; eight states and the District of Columbia require employers to pay employees while they are in jury service for a certain number of days.¹³ Attempts to require employers to compensate employers with \$40 on their first day of service failed to pass in the 81st Texas Legislature.¹⁴

ⁱⁱⁱSec. 659.005 of the Texas Government Code prohibits any salary deductions for state employees required to participate in jury duty ([GOVERNMENT CODE CHAPTER 659. COMPENSATION \(texas.gov\)](https://www.texas.gov/government-code/chapter-659-compensation)).

Juror Appearance Rates and Lack of Diversity

Juror appearance rates are notoriously low around the country. Efforts to make improvements to jury systems and processes began in the early-1990s.¹⁵ According to the National Center for State Courts (NCSC) Center for Jury Studies, many jurisdictions established task forces or commissions during this period to study problems associated with jury service.¹⁶

A survey conducted in **Dallas County, Texas** in 2000 among jurors who both appeared and did not appear for service found that loss of wages was a significant deterrent to attending jury service.¹⁷ Some findings of the study included:

- Twice as many Hispanics as Caucasians had trouble taking time off work for jury service;
- Over 19% of Hispanics and 17% of African Americans, compared to 5% of Caucasians, indicated that their employers would not pay them during their jury service period;
- 40% of individuals who made less than \$35,000 annually indicated that their employers reduced their wages or did not pay them during their jury service period compared to 14% of individuals making more than \$35,000.¹⁸

A study in **Franklin County, Washington** also found that Hispanics whose employers paid them while they were on jury duty were much more likely (65%) to participate in jury duty compared to Hispanics whose employers did not (14%).¹⁹

Jurisdictions around the country have been experimenting with reforms and strategies to increase response rates to jury summonses; create more diverse juror pools; and improve the jury experience overall.

Despite these efforts, juror response rates and juror diversity continue to be low around the country.^{20 21} Harris County's response rate in 2018-2019 hovered around 20%, while Dallas County's response rate in 2019 was around 18%.^{22 23} Likewise, diversity is lacking in jury pools in Harris County and around the country.^{24 25} African Americans and Hispanics are significantly underrepresented in Harris County juries, while Caucasians and Asians are overrepresented.²⁶ African Americans make up 22.4% of Harris County residents over the age of 18, but comprise 16.1% of jurors who appeared after being summoned in 2018-2020.²⁷ Similarly, Hispanics over the age of 18 in Harris County make up 29.1% of Harris County residents, but comprise 19.1% of jurors who appeared after being summoned in 2018-2020.²⁸

Harris County District Clerk's Office (DCO) Efforts to Increase Juror Appearance Rates and Diversity

The DCO reports working on a number of efforts to improve juror appearance rates and diversity of jury pools.

To improve low appearance rates, the DCO adopted use of the e-Juror system, a program that gives potential jurors the flexibility of responding online to their jury qualification questionnaire. The new process enables summoned jurors to pre-register online or by phone and use e-Juror to reschedule their summons date or claim an exemption or disqualification online.²⁹ e-Juror includes an email and text reminder system that allows the DCO to inform seen jurors if they will not be needed.³⁰ Once e-

Juror is fully implemented, jurors will also be able to eliminate up to five days out of a 30-day window when they are unavailable to serve.³¹

Before e-Juror, prospective jurors were required to respond to juror summonses in person. After the initial implementation of e-Juror, the DCO reported appearance rates increased to 92% for individuals who were pre-registered on e-Juror and who received an appearance date.³² The DCO predicts that full implementation of e-Juror will result in cost savings to the County as the system improves management of eligibility pools, and will reduce the number of jurors that the DCO has to pay after reporting to jury service on the first day.³³ The first phase of e-Juror was implemented in July 2020 and approved by the Board of Harris County District Judges for the duration of emergency operations due to the COVID-19 pandemic.³⁴ The DCO is awaiting approval from the Board for full implementation of e-Juror after the COVID-19 pandemic.³⁵

Additionally, the DCO launched the “Stand for Justice” campaign in February 2021, which promotes the importance of jury service through billboards and social media posts.³⁶ The DCO posted billboards in zip codes with traditionally low jury service participation rates.³⁷

Other strategies implemented by the DCO include using a national change of address service to ensure list accuracy and decrease undeliverable summonses and sending follow-up summonses by mail for Failures-to-Appear (FTA) (except during COVID-19).³⁸ The one-day/one-trial system, which allows individuals summoned for jury service to report for one day and releases them from service unless they are selected to serve on a trial, is also practiced in Harris County.^{39 40} Jurors selected for a trial are only required to serve for that one trial.

To target low diversity rates, the DCO consulted January Advisors in 2020 to conduct a study on the underrepresentation of African Americans and Hispanics on juries in Harris County. January Advisors surveyed 1,902 residents in Harris County on juror service through phone calls and an online survey and conducted two focus groups with Hispanic and African American residents who responded to the online survey.⁴¹ January Advisors found that 82% of Hispanic participants and 74% of African American participants would be more likely to respond to jury duty if they were paid \$40 on the first day.⁴²

January Advisors’ chief recommendations for improving juror appearance rates and juror diversity included:

- Increase juror pay to at least \$40 and up to \$80 on the first day;
- Make travel easier with free parking and rideshare vouchers;
- Establish a pilot program for undeliverable summonses; and
- Continue promoting COVID-19 safety measures.⁴³

Other recommendations made by January Advisors included offering childcare, allowing for greater flexibility in scheduling, and launching a public education campaign on jury diversity.⁴⁴

In the March 30, 2021 Commissioners Court, the DCO requested to increase juror pay to incentivize increased appearance rates for jury duty and to aid with increasing the diversity of the juror pool.

The DCO proposes a pilot program to increase juror pay from May 1, 2021 - February 28, 2022. The program would increase the first day of juror pay from \$6 to \$50, and for subsequent days of service, from \$40 to \$80, effective May 3, 2021 for FY2021-22 for the duration of the COVID-19 pandemic.⁴⁵ The DCO requests \$1,819,946 for the increase in pay for FY2021-22 with an additional \$200,000 to be allocated for an awareness campaign for the initial pilot program stage.⁴⁶

The DCO projects that the cost pertaining to the increase in juror pay for the next three years after FY2021-22 will be \$6,051,580 per year, if implemented with the e-Juror System, and \$7,757,080 per year if implemented without the e-Juror System.⁴⁷ The DCO estimates that the dismissal rate under the e-Juror system would be 10% compared to the 37% dismissal rate in 2019 without e-Juror.⁴⁸ The DCO believes that the full implementation of e-Juror will help save taxpayers money by decreasing the number of dismissed jurors the DCO is still required to pay.⁴⁹

Table 1 summarizes the DCO's projected costs of juror compensation if it is implemented past the initial pilot program stage. The DCO proposes evaluating the results of increased pay during the pilot program stage and reporting back to the Commissioners Court in January 2022 on outcomes.⁵⁰

Table 1 DISTRICT CLERK'S OFFICE PROJECTED COST OF JUROR COMPENSATION INCREASE			
	Proposed Cost FY2021-22	Proposed Cost FY22-23 (if adopted with e-Juror System)	Proposed Cost FY22-23 (if adopted without e-Juror System)
Cost of Proposed Juror Pay Increase	\$1,819,946	\$6,051,580	\$7,757,080
Other Costs	\$200,000 (Awareness Campaign)	\$0	\$0
Total Annual Cost	\$2,019,946	\$6,051,580	\$7,757,080
Source: Harris County District Clerk. ⁵¹			

ASSESSMENT

This section includes a literature review on reform strategies that were implemented around the country with the objective of increasing juror appearance rates and jury diversity. State reforms, local reforms, and the impacts of increased juror pay in four jurisdictions are discussed.

SUMMARY OF STATE REFORMS

States have made a number of modifications to jury selection and management processes, many of which have been or are being implemented in the State of Texas and Harris County.

While recommending legislative action may be outside of the scope of this request, a short list is included here as an example of the broader range of reforms being considered elsewhere. State reforms, which would likely require legislative action, include:

- **Eliminate Exclusions.** In an effort to increase the total pool of eligible jurors, some states have removed statutory exclusions for certain groups. State law passed in 2019 in California now allows felons who completed probation or parole to be eligible to serve on a jury.⁵² In 2019, the Washington State legislature enacted a law to clarify that individuals with former felony convictions who have had their civil rights restored can serve on juries.⁵³ In Texas, individuals convicted of a felony or misdemeanor theft are not eligible to serve on a jury.^{54 55}
- **Expand the Source List for Juror Summons.** Fifteen states and the District of Columbia allow courts to expand the juror source list beyond the required lists; while 30 states require courts to use specific lists.⁵⁶ Five states do not require courts to use any specific lists, but provide information on the types of lists that can be used to create the jury source list.⁵⁷ The American Bar Association (ABA) recommends expanding source lists to capture broader jury representation.⁵⁸ This is practiced throughout jurisdictions around the country, though there is little evidence that it results in greater minority representation. New York State draws its juror source list from voter registration, driver's licenses, income taxpayers, and welfare and unemployment benefit recipients' lists.⁵⁹
- **Enact Employer-Related Reforms.** Eight states and the District of Columbia require employers to offer compensation to individuals who serve on a jury after a certain number of days.⁶⁰ Studies show that "failure-to-appear rates are...highly correlated with socioeconomic status," regardless of race.⁶¹

SUMMARY OF LOCAL REFORMS

The Analyst's Office identified seven reforms that can be implemented on the local level to address juror appearance rates and diversity. The Harris County DCO is already practicing a number of these strategies.

1. **Increase Juror Pay.** Several jurisdictions throughout the country are trying to increase appearance and diversity rates through increased pay.⁶² The NCSC found that jurisdictions or courts that offer juror pay higher than the national average, or

that mandate employer compensation for employees while serving on a jury, have lower excusal rates than jurisdictions or courts that do not.⁶³ More details on increases of juror pay in other jurisdictions is discussed in the “Impact of Increased Juror Pay” analysis, which follows.

- **El Paso County, Texas** was the first jurisdiction in Texas to increase juror pay from \$6 per day (every day) to \$6 per day on the first day and \$40 for each subsequent day in 1999.⁶⁴ ⁶⁵ Following the reform, El Paso County reported an increase in appearance rates from 22% to 46%.⁶⁶ Participation among Hispanics more than doubled in the first year and a half of implementation.⁶⁷ The strategy also included an awareness campaign through media channels about the importance of jury service, which focused on Hispanic communities.⁶⁸
- 2. **One-day/one-trial System.** A one-day/one-trial system allows individuals summoned for jury service to report for one day and releases them from service unless they are selected to serve on a trial.⁶⁹ If a juror is selected to serve on a trial, they are only required to serve for that one trial for a set period of time before being selected again. The NCSC reports that the one-day/one-trial system reduces potential hardships associated with jury service because it reduces the loss of income during jury service.⁷⁰ The NCSC also found that courts with a one-day/one-trial system had lower excusal rates than those requiring jurors to serve for longer terms.⁷¹ Harris County was the first jurisdiction in the United States to adopt this strategy in 1971.⁷²
- Other jurisdictions around the country, including **New York State** and **Massachusetts State**, also implemented the reform. In **New York State**, the average days of service decreased from five days to two days after implementing the one-day/one-trial system.⁷³
- 3. **Develop Juror Automation.** Automating juror processes through an online platform allows jurors to manage or reschedule their summons dates and receive updates about the status of their jury service without having to appear in person or send mail, which reduces the burden of service. This has been implemented throughout the country via online-juror systems.⁷⁴ Harris County DCO implemented Phase I of e-Juror during COVID-19; full implementation of the program after COVID-19 is pending approval from the Board of Harris County District Judges.⁷⁵
- In **Travis County, Texas**, the implementation of I-Juror resulted in over 90% participation.⁷⁶ Travis County notes that I-Juror helps the County save over \$100,000 per year because of avoided appearances and decreases in the amount of juror summonses that have to be sent due to greater participation.⁷⁷
- 4. **Improve List Accuracy to Decrease Proportion of Undeliverable Summonses.** The American Bar Association (ABA) and National Center for State Courts (NCSC) recommend frequent, annual updates to juror source lists in order to reduce the number of undeliverable summonses.⁷⁸ Individuals with lower socioeconomic statuses move more often and because lower socioeconomic status is correlated with minority status, undeliverable summonses disproportionately impact minorities.⁷⁹ The Harris County DCO enlisted a national change of address service

in September 2020 to improve list accuracy and decrease the proportion of undeliverable summonses.⁸⁰

- **New York State** updated its juror source lists using the national change of address database to ensure accuracy of residents' information.⁸¹
 - The problem of undeliverable summonses in **Massachusetts State** is remedied through sending new summonses to new residents living in the same zip code with the objective of targeting underrepresentation of African Americans on the juror source list.⁸²
5. **Follow-up on Juror Summonses (With or Without Penalties).** Following up on jury summonses either through reminders or postcards, has been cited to increase appearance rates in certain jurisdictions. The NCSC reports that sending out a follow-up reminder can increase response rates by 25-46%.⁸³ Additionally, studies show that the "single biggest predictor of nonresponse rates...was the jurors' expectations about what would happen if they failed to appear," with those who thought nothing would happen less likely to appear.⁸⁴ Harris County DCO currently sends out follow-up juror summonses via email and text reminders through the e-Juror system.⁸⁵
- A study conducted in **Riverside County, California**, found that sending out reminder postcards increased the response rate by at least 5%.⁸⁶ The study notes that adding an enforcement message increases the likelihood of participation by 10%.⁸⁷
 - In **Los Angeles County, California**, the Summons Sanctions Program, which imposed potential penalties on individuals who failed to appear for jury service, reduced the non-response rates among the treatment group from 41% to 3%.⁸⁸
6. **Improve Juror Experience.** Efforts to improve the juror experience are wide-ranging and can include allowing jurors to reschedule their summons requests; providing free parking or mileage reimbursement; providing childcare; and implementing procedures to reduce wait times. In Harris County, METRO provides a free, roundtrip ride for individuals going to jury service on buses or the rail and free shuttle service to the courthouse for individuals summoned to jury service and frequent courthouse visitors.⁸⁹ A free weekday shuttle service that runs every 20 minutes is also available for active jurors.⁹⁰
- A study by the National Center for State Courts found that more than half of the 1,546 courts surveyed offer **mileage reimbursement** to jurors.⁹¹
 - **Montgomery County, Pennsylvania** offers **short-term childcare** for any individuals who need to complete court related business through its Montgomery County Court Care, including jurors.⁹² Montgomery County estimates that the childcare program helps save money since jury staff can attend to juror excusal phone calls.⁹³

7. **Outreach and Education Efforts.** Education and outreach efforts have helped jurisdictions emphasize the importance of jury service as a civic duty. It is difficult to measure the impact of outreach and public awareness campaigns on appearance rates; however, several jurisdictions have experienced success through implementing outreach and education efforts.⁹⁴ Harris County DCO recently launched an outreach campaign, the Stand for Justice campaign, to promote jury service.
- **El Paso County, Texas** implemented an awareness campaign about the importance of jury service, which focused on Hispanic communities, along with juror pay increase in 1999.⁹⁵ Participation among Hispanics more than doubled in the first year and a half of implementation.⁹⁶
 - In the **Eastern District of Pennsylvania**, efforts to increase appearance rates and diversity included changes to jury source lists and address checks. The efforts were also supplemented by a community outreach and education campaign, which engaged community-based organizations and nonprofits, religious organizations, the media, and law offices.⁹⁷
 - The **Eastern District of Michigan** made structural changes and began outreach efforts, which helped non-response and undeliverable rates decrease by around “10% and 3%, respectively, in the Detroit jury division.”⁹⁸

ADDITIONAL DISCUSSION: IMPACT OF INCREASED JUROR PAY

This section provides a review of increases in juror pay rates in four jurisdictions throughout the country, including two counties in Texas and two states.

- El Paso County, Texas
- Dallas County, Texas
- Washington State
- New York State

It is difficult to assess the direct impact of juror pay on both appearance rates and diversity, for two reasons. First, jurisdictions often implement juror pay as part of a broader reform approach or along with other changes to the juror system overall and it is challenging to dissect which reform impacted which outcome. Second, few jurisdictions conduct systematic evaluations following the implementation of a juror pay increase. The following summarizes findings of available studies.

TEXAS JURISDICTIONS

El Paso County and Dallas County are selected in this assessment to demonstrate the results of juror pay increases on juror appearance rates and jury diversity in jurisdictions in the State of Texas.

El Paso County, Texas

Reform: Increased jury compensation from \$6 to \$6 on the first day and \$40 for each subsequent day. Officials also launched a broad public awareness and educational campaign on the significance of jury service, focusing on the Hispanic community.⁹⁹

Year Implemented: 1999

Background: A survey conducted by an El Paso County District Judge among community organizations and jurors who did not show up for jury service found that low juror pay was a significant deterrent to prospective jurors.¹⁰⁰ At the time, appearance rates were 22%.¹⁰¹ In 1999, voters in El Paso County approved a measure to increase juror pay from \$6 to \$40 per day.¹⁰² The pay increase was funded by property taxes.¹⁰³

Outcomes: El Paso County officials reported that within a year of implementation, appearance rates increased from 22% to 46%, and participation among Hispanic jurors increased twofold in the first 18 months.^{104 105} By the third year of implementation, the overall appearance rate increased by 60%.¹⁰⁶

Other reforms: El Paso County followed its increase in juror pay and public awareness campaign with a jury duty court, which implements sanctions on individuals who fail to appear for jury service. The El Paso Council of Judges created a jury duty court, responsible for managing the administrative rules of jury service.¹⁰⁷ The jury duty court oversaw sanctions against individuals who shirked jury service by ordering them to pay fines or show up for hearings to explain their absence. Under the new sanctions, El Paso County's jury appearance increased to more than 86%.¹⁰⁸

El Paso County still pays the same juror stipend and implements jury duty court.¹⁰⁹

Dallas County, Texas

Reform: Increase in jury compensation from \$6 to \$6 on the first day and \$40 for each subsequent day in accordance with Texas State Senate Bill (SB) 1704 (2005).

Year Implemented: 2006

Background: Dallas County has historically struggled with low appearance and response rates as well as severe and deliberate lack of diversity on its juries.¹¹⁰ During the last two decades, appearance rates in Dallas County have hovered around 20%.¹¹¹ Like the rest of the State of Texas, Dallas County implemented the pay increase following the passage of SB 1704 in 2005 to increase juror pay from \$6 a day to \$40 a day after the first day.¹¹³

Along with the pay increase, Dallas County also implemented changes to its summons list, including updates to addresses to decrease the undeliverable rate.¹¹⁴

Outcomes: Dallas County experienced an uptick in the juror appearance rate from 19.5% in 2005 to 23% in 2006 following the implementation of the pay increase and updates to the list of addresses.¹¹⁵ Officials attributed the increase to the updated addresses, which decreased the rate of undeliverable summonses by 3%, as opposed to the pay increase.¹¹⁶

Other reforms: Because of the consistently low appearance rate, Dallas County implemented an automated computer system to help facilitate the delivery of summonses in 2009.¹¹⁷ When appearance rates still did not change, Dallas County experimented with a pilot program in 2012 modeled after El Paso's program to sanction individuals who evaded jury duty.¹¹⁸ The program required individuals who did not respond to summonses to report to the courthouse and explain themselves to a judge, who gave them the opportunity to reschedule their jury duty sessions.¹¹⁹ While the Analyst's Office was unable to find a systematic evaluation on the outcomes of this pilot program, appearance rates in Dallas County continue to be low, at 18% in 2019.¹²⁰

In October 2020, Dallas County mailed out jury summonses to conduct a "virtual jury selection and an in-person civil trial" during COVID-19 to assess how a hybrid model impacts the jury summons process and the composition of the jury pool in terms of demographics.¹²¹ The results of this exercise have not been published yet.

JURISDICTIONS OUTSIDE OF TEXAS

Two jurisdictions outside of Texas, Washington State and New York State, are selected to analyze the impact of juror pay on appearance rates and diversity.

Washington State

Reform: Juror pay was increased from \$10 to \$60 per day in a 12-month pilot study in three jurisdictions throughout the State of Washington—Clark County, Franklin County, and the City of Des Moines.¹²²

Year Implemented: 2006

Background: Due to low appearance rates and lack of diversity on juries in the State of Washington, the Washington State Jury Commission recommended an increase in juror pay as the priority for jury reform in 2000.¹²³ In 2006, a study funded by the Washington State Legislature was conducted to determine whether increased juror pay had an impact on appearance rates and/or diversity.¹²⁴

Outcomes: Results of the increased pay was mixed with respect to juror yield.^{iv} The study found that:

- Juror yield increased from 34% in the 12 months preceding the pay increase to 40% during the pay increase in Clark County. It decreased to 32% following the completion of the pilot project.

^{iv} Juror yield is the percentage of the number of qualified and responsive jurors selected out of the total number of available prospective jurors.

- Juror yield decreased in Franklin County following the pay increase, from 35% in the 12 months preceding the pay increase to 27% during the pay increase. It later decreased to 25% following the study.
- Des Moines' jury yield was almost unaffected during the study.¹²⁵

The study measured the impact of the pay increase on the diversity of the jury pool, collecting data around age, race, ethnicity, employment status, education, and age of youngest child in the home. There was no reported impact of the pay increase on the demographics of the jury pool.¹²⁶

The study reported the attitudes toward service for those who appeared for service and those who do not appear for service through the results of surveys conducted both before the pay increase was implemented and after. The findings are summarized:

- The most significant obstacle to appearing for jury service cited by both jurors who appear for service and those who do not, was reportedly getting time off work.¹²⁷
- In Franklin County, a total of 64% of those who appeared for service reported their employers paid them while on jury duty, compared with 32% of those who did not appear for service. Hispanics whose employers paid them while they were on jury duty were much more likely (65%) to appear for jury duty compared to Hispanics whose employers did not (14%).¹²⁸
- Of those surveyed, only one in 12 of individuals who did not appear for service, was aware of the change in pay, concluding that a campaign highlighting an increase in pay may have improved the impact of greater juror pay on juror appearance rates.¹²⁹

The study ultimately concludes that juror pay is one of many aspects impacting juror appearance and that there is no evident relation between the impact of juror pay and juror appearance.¹³⁰

Other reforms: Increased juror pay continues to be debated in Washington State, particularly with respect to increasing racial and socioeconomic diversity.^v In 2017, the Washington State Minority and Justice Commission (MJC) created the Jury Diversity Task Force to explore policy proposals and make recommendations that may help increase minority representation in juries.¹³¹ In a 2019 interim report, the Task Force made the following recommendations:

- Expand juror source lists;
- Increase juror compensation and job security;
- Clarify that individuals with felony convictions can serve as jurors;¹³²
- Streamline summons and follow-up processes, including use of a one-step process and introducing reminders; and
- Collect demographic data and information on jurors on a statewide basis.¹³³

The activities of the MJC and the Jury Diversity Task Force continue with multiple efforts to build upon the Task Force's initial recommendations. Some

^v The Washington State Supreme Court recently ruled against paying minimum wage for individuals participating in juror service because of the civic requirements associated with jury service which exclude it from the Minimum Wage Act ([Washington Supreme Court: No Minimum Wage for Jurors](#) | [Washington News](#) | [US News](#)).

activities include community engagement groups to better understand the reasons for high non-response rates.¹³⁴

New York State

Reform: New York State implemented a number of reforms, including an increase in juror pay from \$15 a day to \$40 a day for every day of service.¹³⁵

Year Implemented: 1995

Background: In 1994, the New York Chief Judge appointed a blue ribbon panel, the New York Jury Project, to study the American Bar Association's (ABA) *Standards Relating to Juror Use and Management* and make recommendations on improving jury service.¹³⁶ Following the panel's study, the Chief Judge listed 155 reforms, and worked with the New York Legislature to implement a number of changes, including a pay increase from \$15 to \$40,^{vi} which was fully implemented in 1998.^{137 138 139}

Outcomes: Before implementing the changes, appearance rates were 12% and trials were consistently facing a shortage of jurors.¹⁴⁰ Following the reforms, appearance rates increased to 37% within five years.¹⁴¹ The Commissioner of Jurors reported that juror appearance rates increased from 900 jurors to almost 2,000 jurors per week.¹⁴²

Other reforms: The experience of New York State demonstrates the difficulty of separating the impact of increased juror compensation on juror appearance rates, diversity, and overall experience. New York State utilizes a multi-pronged approach to jury reform, implementing a number of additional changes through the legislature.

Other notable reforms include the implementation of the one-day/one-trial system; complete elimination of exemptions for certain groups, such as doctors, lawyers, dentists, and other professionals; updates to the juror selection list to reduce undeliverable jury summonses; and expansion of juror lists by drawing from voter registration, driver's licenses, income taxpayers, and welfare and unemployment benefit recipients' lists.^{143 144 145}

The elimination of exemptions, measures to target undeliverable summonses, and expansion of juror lists grew juror pools and reduced undeliverable summonses.¹⁴⁶ However, whether any of these reforms had a direct impact on diversity is questionable.

^{vi} Varying sources indicate different amounts for the initial New York juror pay rate. One source indicates that the starting rate for New York jurors was \$7.50 (<https://heinonline.org/HOL/P?h=hein.barjournals/texbarj0068&i=146>), a second source indicates it was \$10 ([Jury of Our Peers: An Unfulfilled Constitutional Promise \(smu.edu\)](#)), and a third source states it was \$15 ([Five Years of Jury Reform: What Jurors are Saying \(vera.org\)](#)).

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The Harris County Commissioners Court's Analyst's Office provides the Harris County Commissioners Court members with objective, nonpartisan, and timely fiscal and policy analysis related to the efficiency and effectiveness of various County operations.

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